



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/667,971	09/25/2000	Bryan Hulstedt		1104

20606 7590 08/28/2002

KEITH FRANTZ  
401 WEST STATE STREET  
SUITE 200  
ROCKFORD, IL 61101

EXAMINER

FLORES SANCHEZ, OMAR

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 08/28/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

SM.

# Office Action Summary

Application No.

09/667,971

Applicant(s)

BRYAN HULSTEDT

Examiner

Omar Flores-Sánchez

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 2-6 and 9-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,7,8 and 13-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 2-6, 9-11 and 12 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 4.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 7-8, 13-14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Alcock et al. in view of Hicks.

Alcock discloses (Fig. 1-9) the invention substantially as claimed including a means (23, 32) for advancing the rod stock, a closed knife 52, a gage pin 115 having gage surface being connected for resilient movement 125, a tapered surface 115, a base 119, a cap 127. Alcock does not show an air supply. However, Hicks teaches the use of an air supply for the purpose of ejecting the product. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have

Art Unit: 3724

modified Alcock's device by providing the air supply as taught by Hicks in order to obtain an ejector device for removing the cut rod.

4. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over in view of Alcock et al. in view of Hicks as applied to claim 13 above.

The modified device of Alcock discloses the invention substantially as claimed except for an air transport line extending through the die and having a discharge end aligned with the opening in the knife. However, Hicks teaches the use of an air transport line 98 extending through the die and having a discharge end aligned with the opening in the knife 50 for the purpose of ejecting the product. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified Alcock's device by providing the air transport line 98 and the discharge end as taught by Hicks in order to obtain an ejector device for removing the cut rod.

### ***Conclusion***


5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wingard, Keyes et al., Kline, Wilhelm, Neumann, Zanzerl et al. and Bezama et al. are cited to show related device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Omar Flores-Sánchez whose telephone number is 703-308-0167. The examiner can normally be reached on Monday thru Thursday between 8am and 5pm. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082.

Art Unit: 3724

In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9302. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-1148.

ofs  
August 20, 2002

  
Allan N. Shoap  
Supervisory Patent Examiner  
Group 3700